



February 15, 2008

ENGROSSED HOUSE BILL No. 1164

DIGEST OF HB 1164 (Updated February 12, 2008 1:43 pm - DI 73)

Citations Affected: IC 6-1.1; noncode.

Synopsis: Property tax deduction for model residences. Subject to certain restrictions, allows a 50% property tax deduction for property taxes first due and payable after 2009 for a model residence for not more than: (1) an assessment date for which the residence is partially assessed; and (2) the first three years for which the residence is fully assessed. Specifies procedures for obtaining a deduction. Provides that not more than three model residences in Indiana owned by the same owner or an affiliated group of owners may qualify for the deduction for an assessment date.

Effective: January 1, 2009.

Herrell, Buck, Borrer, Klinker

(SENATE SPONSORS — KENLEY, LEWIS)

January 10, 2008, read first time and referred to Committee on Ways and Means.
January 22, 2008, reported — Do Pass.
January 28, 2008, read second time, amended, ordered engrossed.
January 29, 2008, engrossed. Read third time, passed. Yeas 88, nays 4.

SENATE ACTION

January 29, 2008, read first time and referred to Committee on Tax and Fiscal Policy.
February 14, 2008, amended, reported favorably — Do Pass.

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EH 1164—LS 6458/DI 52+



February 15, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1164

A BILL FOR AN ACT to amend the Indiana Code concerning
taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-12.6 IS ADDED TO THE INDIANA CODE
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2009]:

4 **Chapter 12.6. Deduction for Model Residence**

5 **Sec. 0.5. As used in this chapter, "affiliated group" means any**
6 **combination of the following:**

7 (1) An affiliated group within the meaning provided in Section
8 1504 of the Internal Revenue Code (except that the ownership
9 percentage in Section 1504(a)(2) of the Internal Revenue Code
10 shall be determined using fifty percent (50%) instead of
11 eighty percent (80%)) or a relationship described in Section
12 267(b)(11) of the Internal Revenue Code.

13 (2) Two (2) or more partnerships (as defined in IC 6-3-1-19),
14 including limited liability companies and limited liability
15 partnerships, that have the same degree of mutual ownership
16 as an affiliated group described in subdivision (1), as
17 determined under the rules adopted by the department.

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1 **Sec. 1. (a)** As used in this chapter, "model residence" means real
 2 property that consists of a single family residence, single family
 3 townhouse, or single family condominium unit that:

- 4 (1) has never been occupied as a principal residence; and
 5 (2) is used for display or demonstration to prospective buyers
 6 or lessees for purposes of potential acquisition or lease of a
 7 similar type of residence, townhouse, or condominium unit
 8 on:

- 9 (A) the same property; or
 10 (B) other property.

11 (b) The term does not include any of the land on which the
 12 residence, townhouse, or condominium unit is located.

13 (c) Real property described in subsection (a) that is used by the
 14 owner as the owner's regular office space may not be considered a
 15 model residence for purposes of this chapter. However, this
 16 subsection does not prohibit the use of a garage or other space in
 17 the real property:

- 18 (1) to store or display material used to promote the real
 19 property or other similar properties; or
 20 (2) as a space for meetings with prospective buyers or lessees.

21 **Sec. 2. (a)** This section applies only to a model residence that is
 22 first assessed as:

- 23 (1) a partially completed structure; or
 24 (2) a fully completed structure;

25 for the assessment date in 2009 or a later year.

26 (b) Except as provided in subsection (c) and sections 4, 5, and 6
 27 of this chapter, and subject to sections 7 and 8 of this chapter, an
 28 owner of a model residence is entitled to a deduction from the
 29 assessed value of the model residence in the amount of fifty percent
 30 (50%) of the assessed value of the model residence for the
 31 following:

- 32 (1) Not more than one (1) assessment date for which the model
 33 residence is assessed as a partially completed structure.
 34 (2) The assessment date for which the model residence is first
 35 assessed as a fully completed structure.
 36 (3) The two (2) assessment dates that immediately succeed the
 37 assessment date referred to in subdivision (2).

38 (c) A deduction allowed for a model residence under this
 39 chapter for a particular assessment date is terminated if the model
 40 residence is sold:

- 41 (1) after the assessment date of that year but before January
 42 1 of the following year; and

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(2) to a person who does not continue to use the real property as a model residence.

The county auditor shall immediately mail notice of the termination to the former owner, the property owner, and the township assessor. The county auditor shall remove the deduction from the tax duplicate and shall notify the county treasurer of the termination of the deduction.

Sec. 3. (a) A property owner that qualifies for the deduction under this chapter must file a statement containing the information required by subsection (b) with the county auditor to claim the deduction for each assessment date for which the property owner wishes to receive the deduction in the manner prescribed in rules adopted under section 9 of this chapter. The township assessor shall verify each statement filed under this section, and the county auditor shall:

(1) make the deductions; and

(2) notify the county property tax assessment board of appeals of all deductions approved;

under this section.

(b) The statement referred to in subsection (a) must be verified under penalties for perjury and must contain the following information:

(1) The assessed value of the real property for which the person is claiming the deduction.

(2) The full name and complete business address of the person claiming the deduction.

(3) The complete address and a brief description of the real property for which the person is claiming the deduction.

(4) The name of any other county in which the person has applied for a deduction under this chapter for that assessment date.

(5) The complete address and a brief description of any other real property for which the person has applied for a deduction under this chapter for that assessment date.

Sec. 4. (a) Subject to section 8 of this chapter, a property owner is entitled to a deduction under this chapter for an assessment date for not more than three (3) model residences in Indiana.

(b) The auditor of a county (referred to in this section as the "first county") with whom a statement is filed under section 3 of this chapter shall immediately prepare and transmit a copy of the statement to the auditor of any other county (referred to in this section as the "second county") if the property owner that claims

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the deduction owns or is buying a model residence located in the second county.

(c) The county auditor of the second county shall note on the copy of the statement whether the property owner has claimed a deduction for the current year under section 3 of this chapter for a model residence located in the second county. The county auditor shall then return the copy of the statement to the auditor of the first county.

Sec. 5. A property owner may not receive a deduction under this chapter with respect to a model residence located in an allocation area (as defined in IC 6-1.1-21.2-3).

Sec. 6. A property owner that qualifies for a deduction for a year under this chapter and another statute with respect to the same model residence may not receive a deduction under both statutes for the model residence for that year.

Sec. 7. (a) If ownership of the model residence changes:

- (1) a new owner that continues to use the property as a model residence may claim the deduction under this chapter; and
- (2) the deduction may not be applied for an assessment date other than the assessment dates to which the deduction could have applied under section 2 of this chapter if ownership had not changed.

(b) A person who owns a model residence and claims a deduction under this chapter shall provide to the county auditor a notice that:

- (1) informs the auditor of a transfer of the ownership of the model residence; and
- (2) indicates whether the new owner is eligible to receive a deduction under this chapter.

The notice required by this subsection must be submitted to the county auditor at the same time that a sales disclosure form is filed under IC 6-1.1-5.5.

Sec. 8. The aggregate number of deductions claimed under this chapter for a particular assessment date by the owners of model residences who are a part of an affiliated group may not exceed three (3).

Sec. 9. The department of local government finance shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 2. [EFFECTIVE JANUARY 1, 2009] (a) The department of local government finance may adopt temporary rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to implement IC 6-1.1-12.6, as added by this

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1 act. A temporary rule adopted under this SECTION expires on the
2 earliest of the following:

3 (1) The date that the department of local government finance
4 adopts another temporary rule under this SECTION that
5 repeals, amends, or supersedes the previously adopted
6 temporary rule.

7 (2) The date that the department of local government finance
8 adopts a permanent rule under IC 4-22-2 that repeals,
9 amends, or supersedes the previously adopted temporary rule.

10 (3) The date specified in the temporary rule.

11 (4) July 1, 2011.

12 (b) This SECTION expires July 1, 2011.

13 SECTION 3. [EFFECTIVE JANUARY 1, 2009] IC 6-1.1-12.6, as
14 added by this act, applies only to property taxes first due and
15 payable after 2009.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1164, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

CRAWFORD, Chair

Committee Vote: yeas 22, nays 0.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1164 be amended to read as follows:

Page 1, between lines 4 and 5, begin a new paragraph and insert:

"Sec. 0.5. As used in this chapter, "affiliated group" means any combination of the following:

(1) An affiliated group within the meaning provided in Section 1504 of the Internal Revenue Code (except that the ownership percentage in Section 1504(a)(2) of the Internal Revenue Code shall be determined using fifty percent (50%) instead of eighty percent (80%)) or a relationship described in Section 267(b)(11) of the Internal Revenue Code.

(2) Two (2) or more partnerships (as defined in IC 6-3-1-19), including limited liability companies and limited liability partnerships, that have the same degree of mutual ownership as an affiliated group described in subdivision (1), as determined under the rules adopted by the department."

Page 1, between lines 16 and 17, begin a new paragraph and insert:

"(c) Real property described in subsection (a) that is used by the owner as the owner's regular office space may not be considered a model residence for purposes of this chapter. However, this subsection does not prohibit the use of a garage or other space in the real property:

(1) to store or display material used to promote the real property or other similar properties; or

(2) as a space for meetings with prospective buyers or lessees."

Page 2, line 5, after "in" insert **"subsection (c) and"**.

Page 2, line 6, delete "section 7" and insert **"sections 7 and 8"**.

Page 2, between lines 15 and 16, begin a new paragraph and insert:

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"(c) A deduction allowed for a model residence under this chapter for a particular assessment date is terminated if the model residence is sold:

- (1) after the assessment date of that year but before January 1 of the following year; and
- (2) to a person who does not continue to use the real property as a model residence.

The county auditor shall immediately mail notice of the termination to the former owner, the property owner, and the township assessor. The county auditor shall remove the deduction from the tax duplicate and shall notify the county treasurer of the termination of the deduction."

Page 2, line 16, after "3." insert "(a)".

Page 2, line 17, delete "notice" and insert "statement containing the information required by subsection (b)".

Page 2, line 20, delete "8" and insert "9".

Page 2, line 21, delete "deduction notice" and insert "statement".

Page 2, between lines 26 and 27, begin a new paragraph and insert: "(b) The statement referred to in subsection (a) must be verified under penalties for perjury and must contain the following information:

- (1) The assessed value of the real property for which the person is claiming the deduction.
- (2) The full name and complete business address of the person claiming the deduction.
- (3) The complete address and a brief description of the real property for which the person is claiming the deduction.
- (4) The name of any other county in which the person has applied for a deduction under this chapter for that assessment date.
- (5) The complete address and a brief description of any other real property for which the person has applied for a deduction under this chapter for that assessment date."

Page 2, line 27, delete "A" and insert "Subject to section 8 of this chapter, a".

Page 2, line 31, delete "notice" and insert "statement".

Page 2, line 33, delete "notice" and insert "statement".

Page 2, line 38, delete "notice" and insert "statement".

Page 2, line 41, delete "notice" and insert "statement".

Page 3, line 8, after "7." insert "(a)".

Page 3, between lines 14 and 15, begin a new paragraph and insert: "(b) A person who owns a model residence and claims a

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deduction under this chapter shall provide to the county auditor a notice that:

- (1) informs the auditor of a transfer of the ownership of the model residence; and
- (2) indicates whether the new owner is eligible to receive a deduction under this chapter.

The notice required by this subsection must be submitted to the county auditor at the same time that a sales disclosure form is filed under IC 6-1.1-5.5.

Sec. 8. The aggregate number of deductions claimed under this chapter for a particular assessment date by the owners of model residences who are a part of an affiliated group may not exceed three (3)."

Page 3, line 15, delete "8." and insert "9."

(Reference is to HB 1164 as printed January 22, 2008.)

HERRELL

COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred House Bill No. 1164, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replace the effective dates in SECTIONS 1 through 3 with "[EFFECTIVE JANUARY 1, 2009]".

Page 2, line 25, delete "2008" and insert "**2009**".

Page 2, line 29, delete "one hundred" and insert "**fifty**".

Page 2, line 30, delete "(100%)" and insert "**(50%)**".

Page 5, line 11, delete "2010." and insert "**2011.**".

Page 5, line 12, delete "2010." and insert "**2011.**".

Page 5, line 15, delete "2008." and insert "**2009.**".

Page 5, delete line 16.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1164 as reprinted January 29, 2008.)

KENLEY, Chairperson

Committee Vote: Yeas 9, Nays 2.

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